

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA)	Criminal No: 3:06-1011(CMC)
)	
V.)	
)	
JONATHAN GIANNONE)	
)	

**AFFIDAVIT OF SPECIAL AGENT BOBBY J. KIRBY, UNITED STATES
SECRET SERVICE**

This Affidavit letter is being prepared in connection with the response of the government to the motion of the Defendant, Jonathan Giannone, for a new trial. The facts in this affidavit are based on my personal knowledge, my review of investigative materials relating to this and other matters stemming from Operation Anglerphish, or from other agents with whom I worked during the investigation and prosecution of this matter.

1. I am a Special Agent with the United States Secret Service. I was directly involved in Operation Anglerphish, an investigation that was conducted out of the Columbia, South Carolina, office of the Secret Service;

2. Operation Anglerphish was an online undercover operation designed to identify, investigate, and prosecute persons engaged in online fraud activities, including identity theft, credit card fraud, and wire fraud;

3. Operation Anglerphish utilized Brett Shannon Johnson as a cooperating individual. Johnson's function was to go online to chatrooms and online forums known to be frequented by persons interested in discussing illegal activities. Once in the chatroom or forum, Johnson would identify himself as "Gollumfun." This name was a recognized persona in the realm of persons committing fraudulent acts over the internet, and due to the notoriety, numerous

persons approached Gollumfun to chat about fraudulent activities.

4. Chat sessions with persons who approached Gollumfun were recorded by two (2) separate methods. First, a transcript of each chat was automatically and contemporaneously generated through the use of computer software. The second method of recording the chat sessions was through the use of Camtasia, a software program that records as a video file all activity depicted on the computer screen. At times there were several chat conversations occurring simultaneously. In such circumstances, the Camtasia files contained information relating to all of the chats. Camtasia video files were backed up to an external hard drive on a daily basis.

5. Based upon a letter that he received from Brett Johnson, after Johnson was sentenced by this Court, Giannone claims that the government computer used in his investigation was "hacked" by a third party. This incident did not occur during the portion of the investigation that led to the prosecution of Giannone. Giannone's first contact with the undercover investigation was on May 23, 2005. Monies to pay Giannone for twenty-one (21) unlawfully obtained Bank of America debit card numbers were transferred to Giannone on June 5, 2005. While Giannone and Gollumfun periodically continued to chat following this payment, these further chats were not part of the prosecution.

The incident referenced by Johnson in his letter to Giannone did not happen until over two (2) months after Giannone had been paid \$600. Commencing on August 7, 2005, Gollumfun was contacted by an individual who later identified himself as "deuce" (AKA "deus" / "Manus Dei"). On this date, this individual gained access to two (2) email accounts utilized by the investigation. These accounts had been established with third party service providers. On September 4, 2005, Gollumfun again communicated with "deuce" in response to a request for advice on how to fraudulently make money. During this chat, "deuce" gained access to an online

monetary account utilized by the investigation. None of the activities relating to "deuce" affected the investigation into Giannone.

5. In his Motion for New Trial, Giannone claims that the presence of a tax return document in the Camtasia files provided to him in discovery proves that Brett Johnson utilized government computers to file fraudulent tax returns. During the same general time period of the investigation into Giannone, a subject located in California was in near daily contact with Gollumfun. This individual and Gollumfun chatted extensively about the filing of fraudulent tax returns, looked at websites that could be used to gather information for use in filing fraudulent returns, and discussed programs that would aid in the fraudulent filings. On several occasions, data was sent to and from this subject via online chat and email. As pointed out in Paragraph 4 of this Affidavit, the Camtasia files would include any chats between Gollumfun and this subject that overlapped a chat between Gollumfun and Giannone. This would account for the presence of a tax return on the video files or the presence of any information relating to the filing of fraudulent tax returns. Information about this subject that was gathered during Operation Anglerphish was subsequently used to prosecute this subject for filing fraudulent tax returns.


Bobby Joe Kirby

Sworn to and Subscribed before me this
25th day of July, 2008



Notary Public for the State of South Carolina
My Commission Expires: September 20, 2016